REMARKS

The Office Action mailed March 7, 2007, has been carefully reviewed and the foregoing amendments and remarks have been made in consequence thereof.

Claims 10-27 are now pending in this application. Claims 10-27 stand rejected. Claims 1-9 have been withdrawn.

The rejection of Claims 10-18 and 25 under 35 U.S.C. § 112, second paragraph, as being indefinite is respectfully traversed.

Claim 10 has been amended at line 7 to recite "receive, at the database, component replacement part costs, component part repair costs, and vendor service costs associated with the pre-identified component." Applicants respectfully submit that Claim 10, as amended, satisfies the requirements of Section 112.

Claim 16 has been amended at line 8 to recite "recommend an inspection interval and an estimate of remaining parts life based on an inputted gas component frame size and combustion type." Applicants respectfully submit that Claim 16, as amended, satisfies the requirements of Section 112.

Claim 25 has been amended to recite "recommends an inspection interval and an estimate of remaining parts life based on an inputted gas component frame size and combustion type." Applicants respectfully submit that Claim 25, as amended, satisfies the requirements of Section 112.

Moreover, Claims 11-18 depend directly or indirectly from independent Claim 10 which is submitted to satisfy the requirements of Section 112. When the recitations of Claims 11-18 are considered in combination with the recitations of Claim 10, Applicants submit that dependent Claims 11-18 likewise satisfy the requirements of Section 112.

For the reasons set forth above, Applicants respectfully request that the Section 112 rejections of Claims 10-18 and 25 be withdrawn.

The rejection of Claims 10-11, 13, 14, 18-20, 22, 23 and 27 under 35 U.S.C. § 102(b) as being anticipated by Gonyea et al. (U.S. Patent Application No.: 2001/0032109 A1) ("Gonyea") is respectfully traversed.

Gonyea describes a system (28) for predicting a maintenance schedule (64) and associated maintenance costs (66) for future service events to be performed on a product (38). A plurality of components (34) and sub-components (38) are included in each product (38). The system (28) includes a local computer (10) coupled in communication to a server computer (15) using a network (13). The server computer (15) is also coupled to a database (26) for the storage and retrieval of data relating to predicting the maintenance schedules (64) and costs (66). Specifically, the system (28) predicts the maintenance schedule (64) and costs (66) of future service events of the product (38) to be performed. Operating condition data (50) is input into the system (28) by the owner of the product (32). The operating conditions data (50) include the actual time the product (32) is in use and the details of the operating environment. Alternatively, the operating conditions data (50) may include forecasted values that may be used for estimation purposes.

The system (28) determines a cumulative operating time of each part of the product (32) since the last maintenance event. The cumulative operating time of the part is then compared to design limit data for that part. If the cumulative operating time exceeds the design time limit, then the system (28) schedules a maintenance event. The system (28) computes the costs and prices associated with the event including those for parts, services, repairs and risks for every event in the schedule. The system (28) then utilizes a scheduler (60) and a simulator (62) to determine the maintenance schedule (64) and costs (66) involved in the maintenance event. The system (28) then generates an aggregated maintenance schedule and costs for the product for the term of the service agreement. Notably Gonyea does not describe a server configured to receive at a database, component inspection data from a user for a pre-identified component. Moreover, Gonyea does not describe a server configured to prompt a user to input a pre-determined component operating forecast into the database.

Claim 10 recites a network based system for maintaining at least one component, said system comprising "a server system configured to analyze component maintenance information including component inspection data and at least one of component operational history data, replacement part costs, part repair costs, vendor service costs, and component operational forecast . . . and automatically generate a financial report including at least one schedule of component maintenance events and costs associated with each event based on the component maintenance information analysis."

Gonyea does not describe nor suggest a network based system for maintaining at least one component, as is recited in Claim 10. Specifically, Gonyea does not describe nor suggest a server configured to receive component inspection data from a user for a pre-identified component. Moreover, Gonyea does not describe nor suggest a server configured to prompt a user to input a pre-determined component operating forecast into the database. Furthermore, Gonyea does not describe nor suggest a server that is configured to analyze component maintenance information which includes component inspection data, or generate a financial report based the component maintenance information including the component inspection data. Rather, in contrast to the present invention, Gonyea describes a system that determines the cumulative operating time for a product from the last maintenance event, wherein the actual operating time and details of the operating environment of a product are inputted into the system by an owner of the product. Gonyea also describes a system that determines costs and prices associated with an event including those for parts, services, repairs, and risks for every event and generates a maintenance schedule and associated costs. Accordingly, for at least the reasons set forth above, Applicants respectfully submit Claim 10 to be patentable over Gonyea.

Claims 11, 13, 14 and 18 depend from independent Claim 10. When the recitations of Claims 11, 13, 14 and 18 are considered in combination with the recitations of Claim 10, Applicants respectfully submit that dependent Claims 11, 13, 14 and 18 likewise are patentable over Gonyea.

Claim 19 recites a computer program embodied on a computer readable medium for maintaining at least one component, said program comprising a code segment that receives,

at a database, component operational history data and component inspection data from a user for a pre-identified component and then "analyzes component maintenance information including component inspection data and at least one of component operational history data, replacement part costs, part repair costs, vendor service costs, and component operational forecast . . . and automatically generates a financial report including at least one schedule of component maintenance events and costs associated with each event based on the component maintenance information analysis."

Gonyea does not describe nor suggest a computer program embodied on a computer readable medium for maintaining at least one component, as is recited in Claim 19. Specifically, Gonyea does not describe nor suggest a program that prompts a user to input a pre-determined component operating forecast into the database. Moreover, Gonyea does not describe nor suggest a program that analyzes component maintenance information which includes component inspection data, or generates a financial report based the component maintenance information including the component inspection data. Rather, in contrast to the present invention, Gonyea describes a system wherein actual operating time and details of the operating environment of a product are inputted into the system by an owner of the product. Gonyea also describes a system that determines costs and prices associated with an event including those for parts, services, repairs, and risks for every event and generates a maintenance schedule and associated costs. Accordingly, for at least the reasons set forth above, Applicants respectfully submit Claim 19 to be patentable over Gonyea.

Claims 20, 22, 23 and 27 depend from independent Claim 19. When the recitations of Claims 20, 22, 23 and 27 are considered in combination with the recitations of Claim 19, Applicants respectfully submit that dependent Claims 20, 22, 23 and 27 likewise are patentable over Gonyea.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 10-11, 13, 14, 18-20, 22, 23 and 27 be withdrawn.

The rejection of Claims 12, 15, 16, 21, 24 and 25 under 35 U.S.C. § 103(a) as being anticipated by Gonyea in view of the Examiner's Official Notice is respectfully traversed.

Gonyea is described above. The Examiner took Official Notice that "determining a discount to a customer for replacement costs and vendor fees is old and well known in the art of service contract bidding." Moreover, the Examiner took Official Notice that "prompting a user to enter data is old and well known in the art of database management." Notably, the Official Notice does not describe a server configured to receive at a database, component inspection data from a user for a pre-identified component. Moreover, the Official Notice does not describe a server configured to prompt a user to input a pre-determined component operating forecast into the database. Furthermore, the Official Notice does not describe a server that is configured to analyze component maintenance information which includes component inspection data, or generate a financial report based the component maintenance information including the component inspection data.

Applicants traverse the use of such Official Notice. MPEP section 2144.03 indicates that use of Official Notice should be rare, and that:

> [o]fficial notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known . . . the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute."

MPEP Section 2144.03.

Applicants submit that the Official Notice provided in the Office Action does not include facts that are capable of instant and unquestionable demonstration as to defy dispute. Applicants submit that the assertion that that "it would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the system of Gonyea to include determining customer cost discount level for replacement parts and vendor fees in order to provide an incentive to a potential client to use the service of a vendor," is not a fact that is capable of instant and unquestionable demonstration as to defy dispute. Accordingly, Applicants submit that the Official Notice taken in the Office Action is improper.

Moreover, Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Gonyea nor the Examiners's Official Notice, considered alone or in combination, describes or suggests the claimed combination. Further, in contrast to the Examiner's assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Gonyea and the Examiner's Official Notice, because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicants' own teaching. Rather, only the conclusory assertion that it would have been obvious at the time the invention was made to a person having ordinary skill in the art suggests combining the disclosures.

As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the Applicant." In re Kotzab, 54 U.S.P.Q.2d 1308, 1316 (Fed. Cir. 2000); M.P.E.P. 2143.01.

Furthermore, as is well established, the mere fact that the prior art structure could be modified does not make such a modification obvious unless the prior art suggests the desirability of doing so. *See* In re Gordon, 221 U.S.P.Q.2d 1125 (Fed. Cir. 1984). Furthermore, the Federal Circuit has determined that:

> [i]t is impermissible to use the claimed invention as an
> instruction manual or "template" to piece together the teachings
> of the prior art so that the claimed invention is rendered
> obvious. This court has previously stated that "[o]ne cannot
> use hindsight reconstruction to pick and choose among isolated
> disclosures in the prior art to deprecate the claimed invention."

In re Fritch, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992).

Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts

necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 U.S.P.Q. 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Accordingly, since there is no teaching or suggestion in the cited art for the claimed combination, the Section 103 rejection appears to be based on hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for at least this reason, Applicants submit that Claims 12, 15, 16, 21, 24 and 25 are patentable over Gonyea in view of the Examiner's Official Notice.

Claim 10 recites a network based system for maintaining at least one component, said system comprising "a server system configured to analyze component maintenance information including component inspection data and at least one of component operational history data, replacement part costs, part repair costs, vendor service costs, and component operational forecast . . . and automatically generate a financial report including at least one schedule of component maintenance events and costs associated with each event based on the component maintenance information analysis."

Neither Gonyea nor the Examiner's Official Notice, considered alone or in combination, describes nor suggests a network based system for maintaining at least one component, as is recited in Claim 10. More specifically, neither Gonyea nor the Examiner's Official Notice, considered alone or in combination, describes nor suggests a server configured to receive component inspection data from a user for a pre-identified component. Moreover, Neither Gonyea nor the Examiner's Official Notice, considered alone or in combination, describes nor suggests a server configured to prompt a user to input a pre-determined component operating forecast into the database. Furthermore, neither Gonyea nor the Examiner's Official Notice, considered alone or in combination, describes nor suggests a

server that is configured to analyze component maintenance information which includes component inspection data, or generate a financial report based the component maintenance information including the component inspection data. Rather, in contrast to the present invention, Gonyea describes a system that determines the cumulative operating time for a product from the last maintenance event, wherein the actual operating time and details of the operating environment of a product are inputted into the system by an owner of the product. Gonyea also describes a system that determines costs and prices associated with an event including those for parts, services, repairs, and risks for every event and generates a maintenance schedule and associated costs. The Examiner's Official Notice merely describes that prompting a user to enter general data is old and well known in the art of database management. Accordingly, for at least the reasons set forth above, Claim 10 is submitted to be patentable over Gonyea in view of the Examiner's Official Notice.

Claims 15 and 16 depend directly or indirectly from independent Claim 10. When the recitations of Claims 15 and 16 are considered in combination with the recitations of Claim 10, Applicants submit that dependent Claims 15 and 16 likewise are patentable over Gonyea in view of the Examiner's Official Notice.

Claim 19 recites a computer program embodied on a computer readable medium for maintaining at least one component, said program comprising a code segment that receives, at a database, component operational history data and component inspection data from a user for a pre-identified component and then "analyzes component maintenance information including component inspection data and at least one of component operational history data, replacement part costs, part repair costs, vendor service costs, and component operational forecast . . . and automatically generates a financial report including at least one schedule of component maintenance events and costs associated with each event based on the component maintenance information analysis."

Neither Gonyea nor the Examiner's Official Notice, considered alone or in combination, describes nor suggests a computer program embodied on a computer readable medium for maintaining at least one component, as is recited in Claim 19. More specifically, neither Gonyea nor the Examiner's Official Notice, considered alone or in combination,

describes nor suggests a program that prompts a user to input a pre-determined component operating forecast into the database. Moreover, neither Gonyea nor the Examiner's Official Notice, considered alone or in combination, describes nor suggests a program that analyzes component maintenance information which includes component inspection data, or generates a financial report based the component maintenance information including the component inspection data. Rather, in contrast to the present invention, Gonyea describes a system wherein actual operating time and details of the operating environment of a product are inputted into the system by an owner of the product. Gonyea also describes a system that determines costs and prices associated with an event including those for parts, services, repairs, and risks for every event and generates a maintenance schedule and associated costs. The Examiner's Official Notice merely describes that prompting a user to enter general data is old and well known in the art of database management. Accordingly, for at least the reasons set forth above, Claim 19 is submitted to be patentable over Gonyea in view of the Examiner 's Official Notice.

Claims 21, 24 and 25 depend directly or indirectly from independent Claim 19. When the recitations of Claims 21, 24 and 25 are considered in combination with the recitations of Claim 19, Applicants submit that dependent Claims 21, 24 and 25 likewise are patentable over Gonyea in view of the Examiner's Official Notice.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 12, 15, 16, 21, 24 and 25 be withdrawn.

The rejection of Claims 17 and 26 under 35 U.S.C. § 103(a) as being anticipated by Gonyea is respectfully traversed.

Gonyea is described above.

Applicants respectfully submit that the Section 103 rejection of Claims 17 and 26 is not a proper rejection. The Office Action combines a single prior art reference with mere assertions, that elements of the claimed invention that are missing from the prior art reference, would have been obvious to one of ordinary skill in the art. However, the Action

does not provide a citation to some reference work recognized as standard in the pertinent art. As is well known, obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Gonyea. Rather, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art, and the Applicants given an opportunity to challenge the correctness of the assertion or the repute of the cited reference. Applicants have not been provided with the citation to any reference supporting the mere assertions of obviousness made in the rejection.

Claim 17 depends from Claim 10 which recites a network based system for maintaining at least one component, said system comprising "a server system configured to analyze component maintenance information including component inspection data and at least one of component operational history data, replacement part costs, part repair costs, vendor service costs, and component operational forecast . . . and automatically generate a financial report including at least one schedule of component maintenance events and costs associated with each event based on the component maintenance information analysis."

Gonyea does not describe nor suggest a network based system for maintaining at least one component, as is recited in Claim 10. Specifically, Gonyea does not describe nor suggest a server configured to receive component inspection data from a user for a pre-identified component. Moreover, Gonyea does not describe nor suggest a server configured to prompt a user to input a pre-determined component operating forecast into the database. Furthermore, Gonyea does not describe nor suggest a server that is configured to analyze component maintenance information which includes component inspection data, or generate a financial report based the component maintenance information including the component inspection data. Rather, in contrast to the present invention, Gonyea describes a system that determines the cumulative operating time for a product from the last maintenance event, wherein the actual operating time and details of the operating environment of a product are inputted into the system by an owner of the product. Gonyea also describes a system that determined costs and prices associated with an event including those for parts, services, repairs, and risks for every event and generate a maintenance schedule and associated costs. Accordingly, for at

least the reasons set forth above, Applicants respectfully submit Claim 10 to be patentable over Gonyea.

Claim 17 depends from independent Claim 10. When the recitations of Claim 17 are considered in combination with the recitations of Claim 10, Applicants respectfully submit that dependent Claim 17 likewise is patentable over Gonyea.

Claim 26 depends from Claim 19 which recites a computer program embodied on a computer readable medium for maintaining at least one component, said program comprising a code segment that receives, at a database, component operational history data and component inspection data from a user for a pre-identified component and then "analyzes component maintenance information including component operational history data, component inspection data, replacement part costs, part repair costs, vendor service costs, and component operational forecast . . . and automatically generates a financial report including at least one schedule of component maintenance events and costs associated with each event based on the component maintenance information analysis."
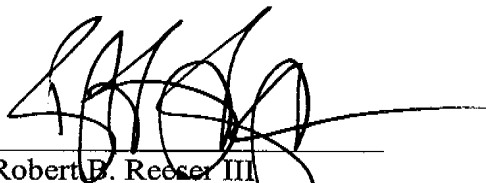
Gonyea does not describe nor suggest a computer program embodied on a computer readable medium for maintaining at least one component, as is recited in Claim 19. Specifically, Gonyea does not describe nor suggest a program that prompts a user to input a pre-determined component operating forecast into the database. Moreover, Gonyea does not describe nor suggest a program that analyzes component maintenance information which includes component inspection data, or generates a financial report based the component maintenance information including the component inspection data. Rather, in contrast to the present invention, Gonyea describes a system wherein actual operating time and details of the operating environment for a product are inputted into the system by an owner of the product. Gonyea also describes a system that determined costs and prices associated with an event including those for parts, services, repairs, and risks for every event and generate a maintenance schedule and associated costs. Accordingly, for at least the reasons set forth above, Applicants respectfully submit Claim 19 to be patentable over Gonyea.

Claim 26 depends from independent Claim 19. When the recitations of Claim 26 are considered in combination with the recitations of Claim 19, Applicants respectfully submit that dependent Claim 26 likewise is patentable over Gonyea.

Accordingly, at least for this reason, Applicants request that the Section 103 rejection of Claims 17 and 26 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,

Robert B. Reeser III
Registration No. 45,548
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070